

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 04-05-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for office visits and aquatic therapy. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits and aquatic therapy services from 07-18-03 through 07-31-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 07-08-03 through 07-31-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 13<sup>th</sup> day of July 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** June 23, 2004

**RE:**

**MDR Tracking #:** M5-04-2455-01

**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- Letter regarding the IRO dated 5/25/04 from \_\_\_\_\_
- Peer review dated 5/13/03 by \_\_\_\_\_ with \_\_\_\_\_
- Notes and examination information from \_\_\_\_\_ dated between 5/13/03-7/31/03

**Submitted by Respondent:**

- Review from \_\_\_\_\_ dated 5/31/03 with \_\_\_\_\_
- Treatment dates and an operative report from \_\_\_\_\_ dated 5/7/03

**Clinical History**

According to an initial evaluation provided by \_\_\_\_\_, the claimant was involved in a work related incident on \_\_\_\_ in which she sustained an injury to her left shoulder secondary to repetitive stress acquired at work. According to the supplied limited documentation, it appears the claimant underwent therapy at \_\_\_\_\_ between the date of injury and 5/7/03. On 5/7/03, the claimant underwent an operation with \_\_\_\_\_ who provided a left shoulder arthroscope with labral debridement, acromioplasty and an acromioclavicular joint resection. The claimant returned to \_\_\_\_\_ on 5/15/03 for a post-operative rehabilitation. The documentation reports on the 5/15/03 examination, the pain was an 8/10. On 6/26/03, the pain was a 6/10. The final evaluation on 7/22/03 reports the claimant stated her pain 3-7/10 with 10 being the highest. There were several daily treatment notes submitted for review. The documentation ends here.

**Requested Service(s)**

Please review and address the medical necessity of the outpatient services including aquatic therapy (97113) and office visits (99213) rendered between 7/8/03 and 7/31/03.

**Decision**

I disagree with the carrier and agree with the treating doctor that the services rendered between 7/8/03-7/31/03 were medically necessary.

### **Rationale/Basis for Decision**

The supplied documentation supports that the claimant underwent surgery on 5/7/03 which would indicate post surgical rehabilitation. After release from \_\_\_\_\_, the claimant began active therapy. After the initial 10 visits, the claimant's pain had slightly decreased to 6/10 at the highest and a current pain level of 4/10 without medications. Since progress had improved, 8 additional visits were recommended and were completed. Per July 22<sup>nd</sup> re-evaluation, recorded that the claimant's pain had reduced to as low as a 3/10. Active range of motion also appeared to improve during this time as well. The final 2 dates of service in question report the claimant's pain down to a 3-4/10 with 10 being the highest. With a steady progression of range of motion and decrease in pain, the continued therapy was seen as medically necessary.